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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/181,402	10/28/1998	MARK J. BEACH	RO998-106	9872
23123	7590	09/06/2005	EXAMINER	
SCHMEISER OLSEN & WATTS 18 E UNIVERSITY DRIVE SUITE # 101 MESA, AZ 85201			CHUNG, DANIEL J	
			ART UNIT	PAPER NUMBER
			2677	

DATE MAILED: 09/06/2005

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/181,402
Filing Date: October 28, 1998
Appellant(s): BEACH, MARK J.

MAILED
SEP 06 2005
Technology Center 2600

Jack P. Friedman
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 05/25/2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1-49 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8). Appellant has made six groups of claims where claims 1, 3, 5, 9, 11, 14-16, 18, 20, 24-26, 28, and 41-46 stand or fall together, claims 2, 8, 17, and 23 stand or fall together, claims 4, 10, 19, 27, 6, 12, 21, and 29 stand or fall together, claims 31-35, 37-40, and 47-49 stand or fall together, claims 7, 13, 22, and 30 stand or fall together and claim 36 stands or falls together.

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,426,513	Scorse	6-1995
5,481,312	Cash	1-1996
5,477,445	Weber	12-1995

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-49 are rejected under 35 U.S.C. 103(a). This rejection is set forth in a prior Office Action, mailed on 03/01/2004. This rejection is reproduced below for the Board's convenience.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6,8-12,14-21,23-29 and 31-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scorse et al (5,426,513) in view of Cash et al (5,481,312).

Regarding claim 1, Scorse et al discloses that the claimed feature of an apparatus comprising: a transmitting computer [embodiment of 10-22 in Fig 1]

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comprising: at least one processor [16]; a memory [14] coupled to the at least one processor [16]; an prioritized graphics file [i.e. "visual image" in Fig 3D] residing in the memory [14] ["the visual image stored in the storage device 14"; See col 3 line 58-59], the prioritized graphics ["visual image"] file defining higher priority image transmission portions [i.e. "most significant/importance blocks"] and lower priority image transmission portions [i.e. least significant/importance blocks] that have been selected and assigned priorities ["numbering orders of blocks in visual image"] such that when the prioritized graphics ["visual image"] file is transferred across a network [24,30], the higher priority image transmission portions [i.e. first block in order] of the prioritized graphics file are transmitted ["the blocks may be sent in the order of their illustrative numbering, 1, 2, 3,...9. By the use of this procedure, the portion of the visual image which the operator has determined to be the most significant is sent first"; See col 6 line 8-12] and displayed ['immediate rendering upon receiving'] before the lower priority image transmission portions of the prioritized graphics ["visual image"] file. (See Fig 1, Fig 3D, col 5 line 6-24, col 5 line 63-col 6 line 33)

Scorse et al does not explicitly disclose that a single prioritized graphics **file** residing in the memory, which contains higher priority image transmission portions and lower priority image transmission portions. However, Cash et al discloses that the method of transmitting a prioritized video bitstream ["a prioritized graphics file"], which stored in hard disc 115, 202 ["memory"], including a plurality of high priority segments ["higher priority image transmission portions"] and low priority segments ["lower priority

image transmission portions"], thereby generating the high priority segments first on monitor in client. (See Fig 1, Fig 2, Fig 4, Abstract, col 1 line 52-62) It would have obvious to one having ordinary skill in the art at the time of Applicant's invention to incorporate the teaching of Cash et al into the teaching of Scorse et al, because they both relate to method of transmitting image/graphic data in network, and the teachings/suggestions in Scorse (See col 6 line 17-19) regarding of "transmission time is kept to a minimum and the information of most importance is transmitted with priority", would provide the motivation to have prioritized image **file**, in order to retrieve/render more important/significant information with effective and easy manner.

Regarding claim 2, refer to the discussion for the claim 1 hereinabove, Cash et al further discloses that a receiving computer [230] receiving image transmission portions of the prioritized graphics file [a prioritized video bitstream], the receiving computer comprising an image interpreter [i.e. 221,223,224] and an image viewer [225] residing on the receiving computer, the image interpreter translating the received image transmission portions of the prioritized graphics file into image data, such that the image viewer can display the higher priority image transmission portions of the prioritized graphics file before displaying the lower priority image transmission portions of the prioritized graphics file. (See Fig 2, Fig 4, col 1 line 51-62)

Regarding claim 3, Scorse et al discloses that an image prioritization editor residing in the memory, the image prioritization editor allowing at least one image

transmission portion of the prioritized graphics file to be selected and assigned at least one priority. (See Fig 3D, col 5 line 63-col 6 line 22) [Examiner assert that having a graphical user interface, which would stored in memory, is necessarily required for performing the operator's image prioritization in Scorse et al.]

Regarding claim 4, refer to the discussion for the claim 1 hereinabove, Cash et al further discloses that the image interpreter saving the prioritized graphics file in a prioritized graphics file format [408]. (See Fig 2-4)

Regarding claim 5, refer to the discussion for the claim 1 hereinabove, Scorse et al does not explicitly disclose that the prioritized graphics file format comprises joint picture experts group format, graphics interchange format, or bitmap format. However, Examiner takes office notices that such claimed limitations [i.e. jpeg, gif, bmp, mpeg, tiff] are notoriously well-know graphic file format in an analogous art in order to provide the compatibility with outputting devices.

Regarding claim 6, refer to the discussion for the claims 1 and 5 hereinabove, Scorse et al discloses that the prioritized graphics file format comprises a plurality of image transmission portions of the prioritized graphics file, each image transmission portion corresponding to the at least one priority. (See Fig 1, Fig 3D, col 5 line 6-24, col 5 line 63-col 6 line 33)

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Regarding claim 8, claim 8 is similar in scope to the combination of claims 1 and 2, and thus the rejections to claims 1 and 2 hereinabove are also applicable to claim 8.

Regarding claims 9-12, claims 9-12 are respectively equivalent to claims 3-6, and thus the rejections to claims 3-6 hereinabove are also respectively applicable to claims 9-12, but applied in view of the rejections to base claim 8.

Regarding claims 14-16, claims 14-16 are similar in scope to claim 1, and thus the rejection to claim 1 hereinabove is also applicable to claims 14-16.

In addition, Cash et al further discloses that signal bearing media bearing the image interpreter wherein the signal bearing media comprises transmission media or recordable media. (See Fig 2)

Regarding claims 17-21, claims 17-21 are respectively equivalent to claims 2-6, and thus the rejections to claims 2-6 hereinabove are also respectively applicable to claims 17-21, but applied in view of the rejections to base claim 14.

Regarding claim 23, claim 23 is the corresponding program product of claims 14 and 17. Thus, the rejections to claims 14 and 17 hereinabove are also applicable to claim 23.

Regarding claims 24-29, claims 24-29 are respectively equivalent to claims 15-21, and thus the rejections to claims 15-21 hereinabove are also respectively applicable to claims 24-30, but applied in view of the rejections to base claim 23.

Regarding claim 31, claim 31 is similar in scope to the claim 1, and thus the rejection to claim 1 hereinabove is also applicable to claim 31.

Regarding claims 32-34, claims 32-34 are respectively equivalent to claims 4-6, and thus the rejections to claims 4-6 hereinabove are also respectively applicable to claims 32-34, but applied in view of the rejections to base claim 31.

Regarding claims 35 and 38-40, claim 35 and 38-40 are similar in scope to claims 8, 13 and 10-12. Thus, the rejections to claims 8,13 and 10-12 hereinabove are also applicable to claim 35 and 38-40.

Regarding claim 37, Scorse et al discloses that the step of translating the portion of the image file into image data further comprises that step of decompressing the portion of the image file. (See Fig 3-6)

Regarding claims 41-49, claims 41-49 are similar in scope to the claim 5, and thus the rejection to claim 5 hereinabove is also applicable to claims 41-49.

Claims 7,13,22,30 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scorse et al (5,426,513) in view of Cash et al (5,481,312), and further in view of Weber (5,477,445).

Regarding claim 7, Scorse et al fails to teach that a simulation browser residing in the memory, the simulation browser simulating transmission and reception of the prioritized graphics file, the simulation browser adding a delay between image transmission portions of the prioritized graphics file. However, such limitation [i.e. simulation program] is shown in the teaching of Weber. (See Abstract, col 1 line 17-col 2 line 29) It would have been obvious to one skilled in the art to incorporate the teaching of Weber into the teaching of Scorse and Cash, in order to enable a practical handling of a process on the part of the operator with increased operating convenience, as such improvement is also advantageously desirable in the teaching of Scorse et al for transmitting the prioritized image with great detail of confidence and convenient by operator.

Regarding claims 13,22,30 and 36, claims 13,22,30 and 36 are similar in scope to the combination of claims 1 and 7, and thus the rejections to claims 1 and 7 hereinabove are also applicable to claims 13,22,30 and 36.

(11) Response to Argument

On pages 7-9 of the Brief appellant argued that the cited references do not disclose "the prioritized graphics file defining higher priority image transmission portions and lower priority image transmission portion." Specifically, on page 7-9, appellant argued that there is no motivation to generate the prioritized graphics file and store the file in memory by modifying Scorse by the teaching of Cash. As stated in the final rejection, the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, although Scorse et al does not explicitly disclose that a single prioritized graphics file residing in the memory, which contains higher priority image transmission portions and lower priority image transmission portions. Cash et al clearly discloses that the method of transmitting a prioritized video bitstream ["a prioritized graphics file"], which stored in hard disc 115, 202 ["memory"], including a plurality of high priority segments ["higher priority image transmission portions"] and low priority segments ["lower priority image transmission portions"], thereby generating the high priority segments first on monitor in client. (See Fig 1, Fig 2, Fig 4, Abstract, col 1 line 52-62) It would have obvious to one having ordinary skill in the art at the time of Applicant's invention to incorporate the

teaching of Cash et al into the teaching of Scorse et al, because they both relate to method of transmitting image/graphic data in network, and the teachings/suggestions in Scorse (See col 6 line 17-19) regarding of "transmission time is kept to a minimum and the information of most importance is transmitted with priority", would provide the motivation to have prioritized image file, in order to retrieve/render more important/significant information with effective and easy manner. On pages 7-9 of the Brief appellant argued that Scorse's technique would not necessarily to generate the prioritized graphics file, as such generations of the file would actually delay transmission of the graphic data across a network. However, as indicated in Fig 4 of Scorse, generation of graphic file is necessarily required for transmitting image data across the network. [i.e. 'data packet', shown in Fig 4 of Scorse; See col 6 line 52, col 7 line 10-11] therefore, implementing the prioritized graphic file into the Scorse's technique would provide the transmission of image data between the networks with minimum transmission time with information priority. On pages 9-10 of the Brief appellant argued that the cited references do not disclose "the higher priority image transmission portions are displayed before the lower priority image transmission portions are displayed." However, it would have been obvious to one skilled in the art to display the image data with priority, in order to improve the operator's responsiveness upon received image, as both references teach that real-time transmission of the image data with order. On pages 11, and 12-13 of the Brief appellant argued that the cited references do not disclose the prioritized graphics file which contain both higher and lower priority data. However, as stated in the final rejection, Cash et al clearly discloses that the method of

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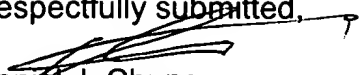
transmitting a prioritized video bitstream ["a prioritized graphics file"], including a plurality of high priority segments ["higher priority image transmission portions"] and low priority segments ["lower priority image transmission portions"], thereby generating the high priority segments first on monitor in client. (See Fig 1, Fig 2, Fig 4, Abstract, col 1 line 52-62) On pages 16-20, of the Brief appellant argued that Examiner has not presented any arguments directed to the active method step. ["selecting", "assigning", "determining", "transmitting", "receiving", "translating", "transferring"] However, as addressed in claim 1 hereinabove, Scorse et al inherently teaches such active method steps. (i.e. 'numbered blocks specified by operator ["selecting", "assigning"], which transmitted across the network' ["transmitting", "receiving", "translating", "transferring"]; See col 5 line 63-col 6 line 22 in Scorse et al)

For the above reasons, it is believed that the rejections should be sustained.

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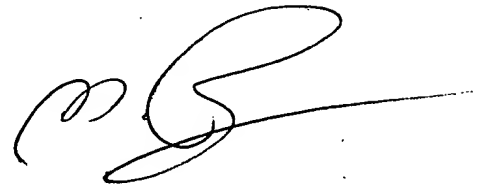
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Respectfully submitted,


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Art Unit 2677

August 16, 2005

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